CARTWRIGHT

High Court Ruling on GMP Equalisaton – but don't call an emergency meeting just yet

Summary

The High Court on Friday ruled, in a 174 page judgment, that Guaranteed Minimum Pensions earned in the Lloyds Banking Group pension schemes must be equalised. For members who have already retired this includes adjusting the benefits since retirement and paying arrears with interest.

This is a case that goes all the way back to the Barber v GRE landmark European court ruling in 1990 that made it unlawful for future accruing benefits to be payable for men and women at different retirement ages. Trustees worked hard on solutions for their own schemes over the subsequent decade as various court cases in the UK clarified exactly what needed to happen. Many Trustees and sponsors bear the financial scars of that work as well as putting in many hours of effort.

The history books have now been written on an important detail, which concerns the Guaranteed Minimum Pensions (GMPs). This is a minimum pension earned by members prior to April 1997 as a result of their scheme being contracted out of the State Earnings Related Pension Scheme (the additional State pension earned on top of the Basic State Pension) that the scheme must pay.

There has been a lack of clarity from court decisions or legislation meaning many schemes have not considered how this element of the benefit might be treated for equalisation purposes, although schemes that have since wound up have made pragmatic decisions on a solution.

The amounts and payment ages of these GMPs remained unequal, and the Lloyd's case has now broken the deadlock through the answers to the questions taken to the High Court in July. The judgment requires that GMPs earned between 17 May 1990 and 5 April 1997 should be equalised.

However, urgent guidance from the Regulator and Government on the method of equalisation would be helpful, as the appropriate answer will vary from scheme to scheme, given that the Court did not decide on a definitive method to be followed from those options put to it.

How this affects your scheme

Trustees may not need to follow the exact same route for their own scheme as will be followed by the Lloyds schemes. A close examination of your own Rules, along with legal advice, will be needed. Transfers out, and corrections required as a result of reconciling GMPs against HMRC, will need further thought.

Trustees will need to form a plan to tackle equalisation of their GMPs, and work in co-operation with the schemes sponsor given there will be a cost to the changes required to equalise the GMPs, although Trustees are expected to progress their GMP equalisation solution without substantive sponsor involvement.

The position remains complex, but rest assured we will discuss with you the best way of minimising the work and inconvenience that may be caused as soon as practicable.

Should you have any immediate queries then please contact your usual Cartwright contact.